

IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

IN RE: § LEAD CASE NO. 18-50788-RBK
THE HJH CONSULTING GROUP, INC., §
D/B/A THE SALT GROUP, DEBTOR §
§
IN RE: § SECOND CASE NO. 18-50789-RBK
US TAX RECOVERY PARTNERS, LLC, §
DEBTOR §
§
IN RE: § THIRD CASE NO. 18-50791-RBK
B2B PROSPECTING, LLC, §
DEBTOR § CHAPTER 11
§
Jointly Administered Debtors § (Jointly Administered Under
§ 18-50788-RBK)

US TAX RECOVERY PARTNERS, LLC, §
PLAINTIFF § ADVERSARY NO. _____
§
§
vs. §
§
STEPHEN A. CANTY, §
DEFENDANT §

DEBTOR'S COMPLAINT FOR DECLARATORY RELIEF

TO THE HONORABLE RONALD B. KING, CHIEF UNITED STATES BANKRUPTCY
JUDGE:

NOW COMES, US TAX RECOVERY PARTNERS, LLC, one of the Debtors-in-Possession in the above referenced jointly administered case and Plaintiff herein (the "Plaintiff") and states:

JURISDICTIONAL AND CORE ALLEGATIONS

1. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. § 1334 (b) .

2. This proceeding is a core proceeding within the meaning of 28 U.S.C. §157(b)(2)(K) & (O).

VENUE

3. Venue is proper in the Western District of Texas pursuant to 28 U.S.C. §1409(a).

PARTIES

4. STEPHEN A. CANTY is a former employee of the Plaintiff, US TAX RECOVERY PARTNERS, LLC. STEPHEN A. CANTY's mailing address is 1002 Morning Side Drive, Kerrville, Texas 78028. Pursuant to Federal Rules of Bankruptcy Procedure, said Defendant may be served by mailing a copy of the summons and this complaint by priority mail, postage prepaid, to him at 1002 Morning Side Drive, Kerrville, Texas 78028.

5. US TAX RECOVERY PARTNERS, LLC, is the Plaintiff and one of the Debtors-in-Possession in the above referenced case.

APPLICABLE LAW

6. This adversary proceeding is brought pursuant to the Declaratory Judgment Act, 28 U.S.C. §§22-01-22-02 and Federal Rule of Civil Procedure 57 and Bankruptcy Rule 7057.

FACTS

7. The Plaintiff, US TAX RECOVERY PARTNERS, LLC, filed for protection under Chapter 11 of the Bankruptcy Code on April 2, 2018.

8. The Defendant, STEPHEN A. CANTY, is a former employee of

the Plaintiff, US TAX RECOVERY PARTNERS, LLC.

9. As an employee of US TAX RECOVERY PARTNERS, LLC, STEPHEN A. CANTY, made contributions to a 401(k) plan. This plan was and is administered by US TAX RECOVERY PARTNERS, LLC, Debtor-in-Possession.

10. STEPHEN A. CANTY, solely, made contributions to the 401(k) and the employer, US TAX RECOVERY PARTNERS, LLC did not match any contributions or make any payments on behalf of STEPHEN A. CANTY. As such, all contributions to the 401(k) were payroll deductions from Mr. Carty's salary as an employee of the Plaintiff.

11. Recently, STEPHEN A. CANTY, has asked for a distribution of the funds held on his behalf in the 401(k) plan. There is approximately \$200,000.00 of funds. Mr. Carty has requested a distribution of \$145,000.00 to an IRA and a cash payment to him in the amount of \$55,000.00.

12. As this Court is well aware, Mr. Carty was terminated from his employment in late March 2018, when it was discovered by representatives of US TAX RECOVERY PARTNERS, LLC that Mr. Carty had willfully manipulated the financial records of that entity to the detriment of the Plaintiff. In fact, Mr. Carty confessed to wrongdoing and criminal activity.

13. Upon information and belief, STEPHEN A. CANTY, is under investigation by the Federal Bureau of Investigation.

14. The salary of the Defendant, STEPHEN A. CANTY, was based upon commissions, bonuses, incentives, and the privileges of ownership as a Franchisee of US TAX RECOVERY PARTNERS, LLC franchises.

PRAYER

15. WHEREFORE, PREMISES CONSIDERED, Plaintiff prays for the following relief:

- (a) A declaration and determination that all funds received and contributed to the 401(k) plan on behalf of STEPHAN A. CANTY, were the fruits of crime and there be a declaration that all of those funds are the property of the Plaintiff;
- (b) A declaration that a constructive trust should be imposed upon said funds for the benefit of the Debtor-in-Possession, US TAX RECOVERY PARTNERS, LLC;
- (c) All other relief, general or special, at law or in equity, to which Plaintiff shows himself justly entitled.

Respectfully submitted,

WILLIS & WILKINS, L.L.P.

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Attorneys for Plaintiff, US TAX
RECOVERY PARTNERS, LLC

CERTIFICATE OF SERVICE

I certify that I forwarded a true and correct copy of this document on the 25th day of September, 2018, to the following persons or entities:

Stephen A. Canty
1002 Morning Side Drive
Kerrville, Texas 78028

U.S. Trustee
615 E. Houston Street, Suite 533
San Antonio, Texas 78205

WILLIS & WILKINS, L.L.P.

BY: /s/James S. Wilkins
JAMES S. WILKINS
Attorney for Plaintiff, US TAX
RECOVERY PARTNERS, LLC